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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

9 Concrete Management Corporation, a) No. CV-08-0322-PHX-LOA
10 Colorado Corporation,)
11 Plaintiff,)
12 vs.)
13 Double AA Builders of California, Inc., a))
14 California corporation; Double AA)
15 Builders, Ltd., an Arizona corporation,)
16 Jointly and Severally,)
17 Defendants.)
18)
19 Double AA Builders of California, Inc., a))
20 California corporation,)
21 Counterclaimant,)
22 vs.)
23)
24)
25 Concrete Management Corporation, a))
26 Colorado Corporation.)
27 Counterdefendant.)

24 After review of the parties's briefings on Defendant AA's pending Motion for
25 Summary Judgement and Plaintiff CMS' Response failing to fully address or mention the
26 applicability of potentially important legal issues,

1 **IT IS ORDERED** that Plaintiff CMS shall file a Supplemental Response, not
2 exceeding ten pages, on or before **Wednesday, December 10, 2008**, with citation to relevant
3 statutes and case law:

4 1. Whether Plaintiff CMS agrees or disagrees with the following statement of
5 law, cited in Defendant AA's Motion for Summary Judgment:

6 [A] federal court sitting in diversity must apply the forum state's choice of law
7 rules. *Orr v. Bank of America*, 285 F.3d 764, 772 n 4 (9th Cir. 2002). Arizona
8 choice of law rules therefore apply to determine the applicability of the
Subcontract's choice of law provision to the issue presented in this motion.

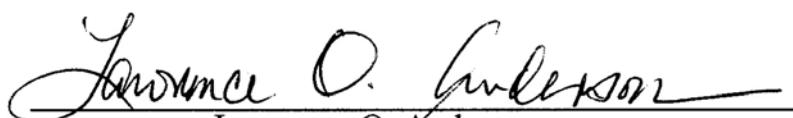
9 (docket # 29 at 3) If Plaintiff CMS disagrees with this statement of law, it shall set forth why
with citation to relevant *federal* case law.

10 2. If Arizona's choice of law provisions govern this action, why doesn't
11 Arizona case law and/or Arizona Revised Statute ("A.R.S.") § 32-1153 preclude recovery
12 of some or all of Plaintiff CMS' claims. *Id.* at 7, n. 3.

13 **IT IS FURTHER ORDERED** that Defendant AA shall file its Reply to
14 Plaintiff CMS Response and Supplemental Response on or before **10 business days** after
15 Plaintiff CMS files its Supplemental Response.

16 **IT IS FURTHER ORDERED** that counsel shall "use proper capitalization"
17 in all future captions as mandated by LRCiv 7.1(a)(3) and Plaintiff's counsel shall file future
18 pleadings, briefings, and documents in "font size no smaller than 13 point." LRCiv 7.1(b)(1),
19 effective December 1, 2008.

20 DATED this 5th day of December, 2008.

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22 Lawrence O. Anderson
23 United States Magistrate Judge
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